

Supreme Court May Hear ObamaCare Cases

Legal challenges against the Patient Protection and Affordable Care Act, otherwise known as ObamaCare, persist. And three of those legal challenges may find an ear with the United States Supreme Court.

In the latest turn, Liberty Counsel filed a Reply Brief in Support of its Petition for a Writ of Certiorari with the Supreme Court in the case of *Liberty University v. Geithner*. Liberty Counsel represents Liberty University and two private individuals in the case.

“The constitutional issues presented in the ObamaCare lawsuit are of exceptional importance to every American,” says Mathew Staver, founder and chairman of Liberty Counsel and dean of Liberty University School of Law. “If ObamaCare is upheld, then Congress will be able to force every American to purchase products or services determined by bureaucrats.”

The Supreme Court is scheduled to conference the case on Nov. 10, along with three Petitions for Certiorari related to the case from Florida involving 26 states (*Florida v. United States Department of Health and Human Services*), and the case from Michigan (*Thomas More Law Center v. Obama*).

The Florida case challenges the individual mandate and Medicare changes. The Michigan case challenges the individual mandate. Liberty Counsel’s case challenges both the individual and employer mandates.

In the Liberty University case, a divided court of appeals ruled that the mandate is a “tax” under the Anti-Injunction Act (AIA), and concluded that the court did not have jurisdiction to rule on the merits until the “tax” is paid and a refund sought by the taxpayer. Thus, according to two

members of the Fourth Circuit panel, the case could not be brought until the mandate becomes effective in 2014.

Every other court which has considered this question has found that the mandate is a "penalty," not a tax, and that the AIA does not apply. Even the federal government defendants argued that the AIA does not apply.

On Nov. 10, the justices will consider whether to take one or more of these cases. The consensus of Supreme Court watchers is that the court will take one or more of the ObamaCare challenges.

The court's decision could be announced as early as Nov. 14. The Initial Brief or briefs of whichever case is accepted would be due 45 days after the court announces its decision. Oral argument would be set in the spring of 2012, with a decision on the merits no later than the end of the court's term in June.